

David J. McGlothlin, Esq. (SBN 026059)
david@southwestlitigation.com

Hyde & Swigart

2633 E. Indian School Road, Ste. 460

Phoenix, AZ 85016

Telephone: (602) 265-3332

Facsimile: (602) 230-4482

Ryan L. McBride, Esq. (SBN 032001)

ryan@kazlg.com

Kazerouni Law Group, APC

2633 E. Indian School Road, Ste. 460

Phoenix, AZ 85016

Telephone: (800) 400-6808

Facsimile: (800) 520-5523

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Leonard Joel Ceder,

Plaintiff,

v.

**Equifax Information Services,
LLC, Barclays Bank Delaware,
Capital One Bank USA, N.A., and
Chase Bank USA, N.A.,**

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES
PURSUANT TO THE FAIR CREDIT
REPORTING ACT, 15 U.S.C. § 1681,
ET SEQ.**

JURY TRIAL DEMANDED

INTRODUCTION

1. The United States Congress has found the banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence, which is essential to the continued

1 functioning of the banking system. Congress enacted the Fair Credit
2 Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), to insure fair and
3 accurate reporting, promote efficiency in the banking system, and protect
4 consumer privacy. The FCRA seeks to ensure consumer reporting agencies
5 exercise their grave responsibilities with fairness, impartiality, and a respect
6 for the consumer’s right to privacy because consumer reporting agencies
7 have assumed such a vital role in assembling and evaluating consumer credit
8 and other information on consumers. The FCRA also imposes duties on the
9 sources that provide credit information to credit reporting agencies, called
10 “furnishers.”

- 11 2. LEONARD JOEL CEDER (“Plaintiff”), by Plaintiff’s attorneys, brings this
12 action to challenge the actions of EQUIFAX INFORMATION SERVICES,
13 LLC (“Equifax”), BARCLAYS BANK DELAWARE (“Barclays”),
14 CAPITAL ONE BANK USA, N.A. (“Capital One”), and CHASE BANK
15 USA, N.A. (“Chase”) (or jointly as “Defendants”) with regard to erroneous
16 reports of derogatory and negative credit information made by Defendants
17 to national reporting agencies, and for failure of Defendants to properly
18 investigate, and this conduct caused Plaintiff damages.
- 19 3. Plaintiff makes these allegations on information and belief, with the
20 exception of those allegations that pertain to Plaintiff, or to Plaintiff’s
21 counsel, which Plaintiff alleges on personal knowledge.
- 22 4. While many violations are described below with specificity, this Complaint
23 alleges violations of the statute cited in its entirety.
- 24 5. Unless otherwise stated, all the conduct engaged in by Defendants took
25 place in Arizona.
- 26 6. Any violations by Defendants were knowing, willful, and intentional, and
27 Defendant did not maintain procedures reasonably adapted to avoid any such
28 violation.
7. Unless otherwise indicated, the use of Defendants’ name in this Complaint

includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers of Defendants' named.

JURISDICTION AND VENUE

8. This Court has federal question jurisdiction because this case arises out of violation of federal law. 15 U.S.C. §1681 *et seq.*; 28 U.S.C. §1331; Jurisdiction arises for Plaintiff's supplemental state claims under 28 U.S.C. § 1367.
9. This action arises out of Defendants' violations of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681(x) ("FCRA").
10. Venue is proper in the United States District Court for the District of Arizona pursuant to 28 U.S.C. § 1391(b) because Plaintiff is a resident of Maricopa County, the State of Arizona and Defendants are subject to personal jurisdiction in the County of Maricopa, State of Arizona as they conduct business there, and the conduct giving rise to this action occurred in Arizona. 28 U.S.C. § 1391(b)(2).

PARTIES

11. Plaintiff is a natural person residing in the County of Maricopa, State of Arizona. In addition, Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1681a(c).
12. Defendant Equifax is a foreign limited liability company doing business in the State of Arizona.
13. Defendant Barclays is a bank doing business in the State of Arizona.
14. Defendant Capital One is a National Bank doing business in the State of Arizona.
15. Defendant Chase is a bank doing business in the State of Arizona.
16. Defendants Barclays, Capital One, and Chase are furnishers of information as contemplated by 15 U.S.C. § 1681s-2(b) that regularly and in the ordinary

1 course of business furnish information to a consumer credit reporting
2 agency.

3 17. Defendant Equifax is a national credit reporting agency, doing business in
4 Arizona, with a principal place of business in Georgia.

5 **GENERAL ALLEGATIONS**

6
7 18. At all times relevant, Plaintiff was an individual residing within the State of
8 Arizona.

9 19. At all times relevant, Defendants conducted business in the State of Arizona.

10 20. On or about October 16, 2014, Plaintiff filed for Bankruptcy in the United
11 States Bankruptcy Court for the District of Arizona. Plaintiff's case was
12 assigned Case Number 2:14-bk-15638-EPB (the "Bankruptcy").

13 21. The obligations ("Debt") to each defendant were scheduled in the
14 Bankruptcy and Defendants, the Creditors, received notice of the
15 Bankruptcy.

16 22. On or about January 23, 2015, Plaintiff received a Bankruptcy discharge.

17 23. None of the Defendants filed any proceedings to declare their Debt "non
18 dischargeable" pursuant to 11 U.S.C. § 523 *et seq.*

19 24. Defendants also did not request relief from the "automatic stay" codified at
20 11 U.S.C. §362 *et seq.* while the Plaintiff's Bankruptcy was pending to
21 pursue the Plaintiff on any *personal* liability for any of the underlying Debts.

22 25. Accordingly, the Debt to each defendant was discharged through the
23 Bankruptcy.

24 26. Further, while the automatic stay was in effect during the Bankruptcy, it was
25 illegal for any of the Defendants to report any post-Bankruptcy derogatory
26 collection information.

27 27. Defendants' attempt to collect upon their respective Debt by reporting post-
28 Bankruptcy derogatory information was therefore false or inaccurate and
prohibited by the automatic stay or Discharge.

1 28. Plaintiff subsequently learned that each of the named Defendants reported
2 post-Bankruptcy derogatory credit information regarding the obligations on
3 Plaintiff's credit reports, thereby causing erroneous and negative credit
4 information in Plaintiff's credit files.

5 **Barclays Misreported Credit Information**

6 29. In an Equifax credit report dated May 6, 2015, Barclays reported the
7 following inaccurate, derogatory information:

- 8
- 9 • Account No. 11511525****: Post-bankruptcy information for
10 the following dates: December 2014 (Date Major Delinquency
11 First Reported).

12 30. Barclays should not have reported derogatory information on Plaintiff's
13 account after October 16, 2014, because Plaintiff filed for Bankruptcy on
14 October 16, 2014.

15 31. On or about May 29, 2015, Plaintiff disputed Barclays' reported information
16 regarding the Debt pursuant to 15 U.S.C. § 1681I(a)(2) by notifying Equifax,
17 in writing, of the incorrect and inaccurate credit information furnished by
18 Barclays.

19 32. Specifically, Plaintiff sent a letter, certified, return receipt, to Equifax (the
20 "Equifax Dispute Letter"), requesting the above inaccurate and incorrect
21 derogatory information be removed as follows:

- 22
- 23 • This account was discharged in my Bankruptcy which was filed
24 on 10/16/2014 and discharged 01/23/2015, bearing case No.
25 2:14-bk-15638-EPB in the District for Arizona. The balance on
26 this account should be "\$0" and the status should be reporting
27 as "current". Specifically, you show the Date Major
28 Delinquency First Reported as 12/2014.

1
2 33. The Equifax Dispute Letter further requested that Equifax:

3 34.

- 4 • Immediately delete this account and the disputed derogatory
5 information from my credit report.
- 6 • The discharged debt should be reported with an account balance
7 of \$0 with a status of “current”.
- 8 • Further, there should be no post-bankruptcy activity reported on
9 this account. The date of last activity on this account should pre-
10 date my bankruptcy filing date, 10/16/2014, since a default on this
11 account occurred no later than the Bankruptcy filing date.
- 12 • Any post-bankruptcy derogatory information should be
13 immediately deleted from [Plaintiff’s] report.
- 14 • If [Equifax] do[es] not immediately delete this from
15 [Plaintiff’s] credit report, please include a 100-word statement in
16 my credit report of all of the disputed information contained in this
17 letter regarding this account.

18
19
20
21 35. Upon information and belief, Equifax timely notified Barclays of Plaintiff’s
22 dispute, but Barclays continued reporting derogatory information.

23 36. Barclays and Equifax were required to conduct a reinvestigation into this
24 specific account on Plaintiff’s consumer report pursuant to 15 U.S.C.
25 §1681i.

26 37. On or about June 16, 2015, Plaintiff received notification from Equifax that
27 Barclays and Equifax received notice of Plaintiff’s dispute pursuant to 15
28

1 U.S.C. § 1681i(a)(6), and Defendants stated the account “does not report any
2 late payments.”

3 38. Surprisingly, rather than remove all the derogatory information from
4 Plaintiff’s report, Barclays and Equifax simply left derogatory information
5 on Plaintiff’s report. Specifically, Barclays and Equifax reported the
6 following inaccurate, derogatory information:

- 7 • Account #11511525****: Post-bankruptcy information for the
8 following dates: December 2014 (Date Major Delinquency
9 First Reported).

10
11 39. Barclays and Equifax, upon receipt of Plaintiff’s dispute, failed to conduct
12 an investigation with respect to the disputed information as required by 15
13 U.S.C. § 1681s-2(b)(1)(A).

14 40. Barclays and Equifax failed to review all relevant information provided by
15 Plaintiff in the dispute to Equifax, as required by and in violation of 15
16 U.S.C. § 1681s-2(b)(1)(B).

17 41. Due to Barclays and Equifax’s failure to investigate, they each further failed
18 to correct and update Plaintiff’s information as required by 15 U.S.C. §
19 1681s-2(b)(1)(E), thereby causing continued reporting of inaccurate
20 information in violation of 15 U.S.C. § 1681-s(2)(b)(1)(C).

21 42. Plaintiff’s continued efforts to correct Barclays and Equifax’s erroneous and
22 negative reporting of the Debt by communicating Plaintiff’s dispute with
23 Barclays and Equifax were fruitless.

24 43. Barclays and Equifax’s continued inaccurate and negative reporting of the
25 Debt in light of its knowledge of the actual error was willful.

26 44. Barclays and Equifax’s inaccurate and negative reporting damaged
27 Plaintiff’s creditworthiness.
28

1 45. By inaccurately reporting account information relating to the Debt after
2 notice and confirmation of its errors, Barclays and Equifax failed to take the
3 appropriate measures as determined in 15 U.S.C. §§ 1681-s(2)(b)(1)(D) and
4 (E).

5
6 **Capital One Misreported Credit Information**

7 46. In an Equifax credit report dated May 6, 2015, Capital One reported the
8 following inaccurate, derogatory information:

- 9 • Account #549110001039****: Post-bankruptcy information
10 for the following dates: December 2014 (Date Major
11 Delinquency First Reported).
- 12 • Account #426932000227****: Post-bankruptcy information
13 for the following dates: November 2014 (Date Major
14 Delinquency First Reported).
- 15 • Account #412174831066****: Post-bankruptcy information
16 for the following dates: November 2014 (Date Major
17 Delinquency First Reported).
- 18 • Account #486236250038****: Post-bankruptcy information
19 for the following dates: November 2014 (Date Major
20 Delinquency First Reported).

21 47. Capital One should not have reported derogatory information on Plaintiff's
22 account after October 16, 2014, because Plaintiff filed for Bankruptcy on
23 October 16, 2014.

24 48. On or about May 29, 2015, Plaintiff disputed Capital One's reported
25 information regarding the Debt pursuant to 15 U.S.C. § 1681I(a)(2) by
26 notifying Equifax, in writing, of the incorrect and inaccurate credit
27 information furnished by Capital One.
28

1 49. Specifically, Plaintiff sent a letter, certified, return receipt, to Equifax (the
2 “Equifax Dispute Letter”), requesting the above inaccurate and incorrect
3 derogatory information be removed as follows:

- 4
5 • These accounts were discharged in my Bankruptcy which was
6 filed on 10/16/2014 and discharged 01/23/2015, bearing case
7 No. 2:14-bk-15638-EPB in the District for Arizona. The
8 balance on this account should be “\$0” and the status should be
9 reporting as “current”. Specifically, for account number
10 549110001039****, you show the Date Major Delinquency
11 First Reported as 12/2014. For account numbers
12 426932000227****, 412174831066****, and
13 486236250038**** you show the Date Major Delinquency
14 First Reported as 11/2014. Both of these dates are after I filed
15 for Bankruptcy on 10/16/2014.

16 50. The Equifax Dispute Letter further requested that Equifax:

- 17
18 • Immediately delete this account and the disputed derogatory
19 information from [Plaintiff’s] credit report.
 - 20
21 • The discharged debt should be reported with an account balance
22 of \$0 with a status of “current”.
 - 23
24 • Further, there should be no post-bankruptcy activity reported on
25 this account. The date of last activity on this account should pre-
26 date my bankruptcy filing date, 10/16/2014, since a default on this
27 account occurred no later than the Bankruptcy filing date.
- 28

1 • Any post-bankruptcy derogatory information should be
2 immediately deleted from [Plaintiff's] report.

3
4 • If [Equifax] do[es] not immediately delete this from
5 [Plaintiff's] credit report, please include a 100-word statement in
6 my credit report of all of the disputed information contained in this
7 letter regarding this account.

8
9 51. Upon information and belief, Equifax timely notified Capital One of
10 Plaintiff's dispute, but Capital One continued reporting derogatory
11 information.

12 52. Capital One and Equifax were required to conduct a reinvestigation into this
13 specific account on Plaintiff's consumer report pursuant to 15 U.S.C.
14 §1681i.

15 53. On or about June 16, 2015, Plaintiff received notification from Equifax that
16 Capital One and Equifax received notice of Plaintiff's dispute pursuant to 15
17 U.S.C. § 1681i(a)(6), and verified the account "does not report any late
18 payments."

19 54. Surprisingly, rather than remove all the derogatory information from
20 Plaintiff's report, Capital One and Equifax simply left derogatory
21 information on Plaintiff's report. Specifically, Capital One and Equifax
22 reported the following inaccurate, derogatory information:

- 23 • Account #549110001039****: Post-bankruptcy information
24 for the following dates: December 2014 (Date Major
25 Delinquency First Reported).
26 • Account #426932000227****: Post-bankruptcy information
27 for the following dates: November 2014 (Date Major
28 Delinquency First Reported).

- Account #412174831066****: Post-bankruptcy information for the following dates: November 2014 (Date Major Delinquency First Reported).
- Account #486236250038****: Post-bankruptcy information for the following dates: November 2014 (Date Major Delinquency First Reported).

55. Capital One and Equifax, upon receipt of Plaintiff's dispute, failed to conduct an investigation with respect to the disputed information as required by 15 U.S.C. § 1681s-2(b)(1)(A).

56. Capital One and Equifax failed to review all relevant information provided by Plaintiff in the dispute to Equifax, as required by and in violation of 15 U.S.C. § 1681s-2(b)(1)(B).

57. Due to Capital One and Equifax's failure to investigate, they each further failed to correct and update Plaintiff's information as required by 15 U.S.C. § 1681s-2(b)(1)(E), thereby causing continued reporting of inaccurate information in violation of 15 U.S.C. § 1681-s(2)(b)(1)(C).

58. Plaintiff's continued efforts to correct Capital One and Equifax's erroneous and negative reporting of the Debt by communicating Plaintiff's dispute with Capital One and Equifax were fruitless.

59. Capital One and Equifax's continued inaccurate and negative reporting of the Debt in light of its knowledge of the actual error was willful.

60. Capital One and Equifax's inaccurate and negative reporting damaged Plaintiff's creditworthiness.

61. By inaccurately reporting account information relating to the Debt after notice and confirmation of its errors, Capital One and Equifax failed to take the appropriate measures as determined in 15 U.S.C. §§ 1681-s(2)(b)(1)(D) and (E).

Chase Misreported Credit Information

62. In an Equifax credit report dated May 6, 2015, Chase reported the following inaccurate, derogatory information:

- Account #541657282344****: Post-bankruptcy information for the following dates: November 2014 (Date Major Delinquency First Reported).
- Account #464018206354****: Post-bankruptcy information for the following dates: November 2014 (Date Major Delinquency First Reported).

63. Chase should not have reported derogatory information on Plaintiff's account after October 16, 2014, because Plaintiff filed for Bankruptcy on October 16, 2014.

64. On or about May 29, 2015, Plaintiff disputed Chase's reported information regarding the Debt pursuant to 15 U.S.C. § 1681I(a)(2) by notifying Equifax, in writing, of the incorrect and inaccurate credit information furnished by Chase.

65. Specifically, Plaintiff sent a letter, certified, return receipt, to Equifax (the "Equifax Dispute Letter"), requesting the above inaccurate and incorrect derogatory information be removed as follows:

- These accounts were discharged in my Bankruptcy which was filed on 10/16/2014 and discharged 01/23/2015, bearing case No. 2:14-bk-15638-EPB in the District for Arizona. The balance on these accounts should be "\$0" and the status should be reporting as "current". Specifically, for account numbers 541657282344**** and 464018206354****, you show the

1 Date Major Delinquency First Reported as 11/2014. This is
2 after I filed for Bankruptcy on 10/16/2014.

3
4 66. The Equifax Dispute Letter further requested that Equifax:

- 5 • Immediately delete this account and the disputed derogatory
6 information from [Plaintiff's] credit report.
7
- 8 • The discharged debt should be reported with an account balance
9 of \$0 with a status of "current".
10
- 11 • Further, there should be no post-bankruptcy activity reported on
12 this account. The date of last activity on this account should pre-
13 date my bankruptcy filing date, 10/16/2014, since a default on this
14 account occurred no later than the Bankruptcy filing date.
15
- 16 • Any post-bankruptcy derogatory information should be
17 immediately deleted from [Plaintiff's] report.
18
- 19 • If [Equifax] do[es] not immediately delete this from
20 [Plaintiff's] credit report, please include a 100-word statement in
21 my credit report of all of the disputed information contained in this
22 letter regarding this account.

23
24 67. Upon information and belief, Equifax timely notified Chase of Plaintiff's
25 dispute, but Chase continued reporting derogatory information.

26 68. Chase and Equifax were required to conduct a reinvestigation into this
27 specific account on Plaintiff's consumer report pursuant to 15 U.S.C.
28 §1681i.

1 69. On or about June 16, 2015, Plaintiff received notification from Equifax that
2 Chase and Equifax received notice of Plaintiff's dispute pursuant to 15
3 U.S.C. § 1681i(a)(6), and verified the accounts do "not report any late
4 payments."

5 70. Surprisingly, rather than remove all the derogatory information from
6 Plaintiff's report, Chase and Equifax simply left derogatory information on
7 Plaintiff's report. Specifically, Chase and Equifax reported the following
8 inaccurate, derogatory information:

- 9 • Account #541657282344****: Post-bankruptcy information
10 for the following dates: November 2014 (Date Major
11 Delinquency First Reported).
- 12 • Account #464018206354****: Post-bankruptcy information
13 for the following dates: November 2014 (Date Major
14 Delinquency First Reported).

15
16 71. Chase and Equifax, upon receipt of Plaintiff's dispute, failed to conduct an
17 investigation with respect to the disputed information as required by 15
18 U.S.C. § 1681s-2(b)(1)(A).

19 72. Chase and Equifax failed to review all relevant information provided by
20 Plaintiff in the dispute to Equifax, as required by and in violation of 15
21 U.S.C. § 1681s-2(b)(1)(B).

22 73. Due to Chase and Equifax's failure to investigate, they each further failed to
23 correct and update Plaintiff's information as required by 15 U.S.C. § 1681s-
24 2(b)(1)(E), thereby causing continued reporting of inaccurate information in
25 violation of 15 U.S.C. § 1681-s(2)(b)(1)(C).

26 74. Plaintiff's continued efforts to correct Chase and Equifax's erroneous and
27 negative reporting of the Debt by communicating Plaintiff's dispute with
28 Chase and Equifax were fruitless.

1 75. Chase and Equifax's continued inaccurate and negative reporting of the Debt
2 in light of its knowledge of the actual error was willful.

3 76. Chase and Equifax's inaccurate and negative reporting damaged Plaintiff's
4 creditworthiness.

5 77. By inaccurately reporting account information relating to the Debt after
6 notice and confirmation of its errors, Chase and Equifax failed to take the
7 appropriate measures as determined in 15 U.S.C. §§ 1681-s(2)(b)(1)(D) and
8 (E).

9 **FIRST CAUSE OF ACTION**

10 **VIOLATION OF THE FAIR CREDIT REPORTING ACT**

11 **15 U.S.C. § 1681 *ET SEQ.* (FCRA)**

12
13 78. Plaintiff incorporates by reference all of the above paragraphs of this
14 Complaint as though fully stated herein.

15 79. The foregoing acts and omissions constitute numerous and multiple willful,
16 reckless or negligent violations of the FCRA, including but not limited to
17 each and every one of the above-cited provisions of the FCRA, 15 U.S.C. §
18 1681.

19 80. As a result of each and every willful violation of the FCRA, Plaintiff is
20 entitled to actual damages as the Court may allow pursuant to 15 U.S.C. §
21 1681n(a)(1); statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
22 punitive damages as the Court may allow pursuant to 15 U.S.C. §
23 1681n(a)(2); and reasonable attorney's fees and costs pursuant to 15 U.S.C.
24 § 1681n(a)(3) from Defendants.

25 81. As a result of each and every negligent noncompliance of the FCRA,
26 Plaintiff is entitled to actual damages as the Court may allow pursuant to 15
27 U.S.C. § 1681o(a)(1); and reasonable attorney's fees and costs pursuant to
28 15 U.S.C. § 1681o(a)(2) from Defendants.

PRAYER FOR RELIEF

Plaintiff respectfully requests the Court grant Plaintiff the following relief against Defendants:

FIRST CAUSE OF ACTION

VIOLATION OF THE FAIR CREDIT REPORTING ACT

15 U.S.C. § 1681 ET SEQ. (FCRA)

- an award of actual damages pursuant to 15 U.S.C. § 1681n(a)(1);
- award of statutory damages pursuant to 15 U.S.C. § 1681n(a)(1);
- an award of punitive damages as the Court may allow pursuant to 15 U.S.C. § 1681n(a)(2);
- award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1681n(a)(3), and 15 U.S.C. § 1681(o)(a)(1) against Defendants for each incident of negligent noncompliance of the FCRA; and
- any other relief the Court may deem just and proper.

TRIAL BY JURY

82. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: August 21, 2015

Respectfully submitted,

BY: /s/ RYAN L. MCBRIDE
RYAN L. MCBRIDE, ESQ.
ATTORNEY FOR PLAINTIFF